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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09 889,515	10 10 2001	Alan W Faulf	P0281494	5223

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EXAMINER

WRIGHT, SONYA N

ART UNIT	PAPER NUMBER
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1626

DATE MAILED: 10 01 2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/889,515

Applicant(s)

FAULL ET AL

Examiner

Sonya Wright

Art Unit

1626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-10 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

\_\_\_\_\_  
The following information has been furnished to the Office in support of the above acknowledgment:

1. ☐ Translation of foreign priority document(s) filed with this application.  
2. ☐ Notice of Draftsman's Patent Drawing Review (P.T.O. Form 104)  
3. ☐ Information Disclosure Statement(s) (P.T.O. Form 1449, Paper No. 1)

4. ☐ Notice of Informal Patent Application (P.T.O. Form 101)  
5. ☐ Other

### DETAILED ACTION

Claims 1-10 are pending in this application.

#### *Election/Restrictions*

Due to the numerous variables in the claims, R1, R2, R3, R4, R5, R6, R7, R8, R9, X, etc. . . . and their widely divergent meanings, a precise listing of inventive groups can not be made. The following groups are exemplary:

Group I claims 1-10, drawn to compounds of formula (I), a process of preparing compounds of formula (I), and a composition, wherein R1 is optionally substituted aryl; R2 is as defined except that R2 is not a group of the formula (VI); R3 is as defined except that R3 is not optionally substituted heterocyclyl; R4 is as defined except that R4 is not optionally substituted heteroaryl and at least one of R16 or R17 is other than hydrogen, therefore R16 and R17 do not form an optionally substituted heterocyclic ring which optionally contains further heteroatoms, together with the nitrogen atom to which they are attached; R5, R6, and R7 are independently selected from hydrogen, a functional group or an optionally substituted hydrocarbyl group, classified in class 548 and subclass 469+.

Group II claims 1-10 drawn to compounds of formula (I), a process of preparing compounds of formula (I), and a composition wherein R1 is optionally substituted aryl; R2 is as defined; R3 is as defined except that R3 is not optionally substituted heterocyclyl, R4 is NHSO<sub>2</sub>R<sub>15</sub> and R<sub>15</sub> is thienyl substituted by pyridyl, R5, R6, and R7 are independently selected from hydrogen, a functional group or an optionally

Group III claims 1-10 drawn to compounds of formula (I), a process of preparing compounds of formula (I), and a composition wherein R1 is optionally substituted aryl; R2 is as defined; R3 is as defined except that R3 is not optionally substituted heterocyclyl; R4 is NHCOR15 and R15 is alkyl substituted by morpholinyl; R5, R6, and R7 are independently selected from hydrogen, a functional group or an optionally substituted hydrocarbyl group, classified in class, classified in class 544 and subclass 106+.

Group IV claims 1-10 drawn to compounds of formula (I), a process of preparing compounds of formula (I), and a composition wherein R1 is optionally substituted aryl; R2 is as defined; R3 is as defined except that R3 is not optionally substituted heterocyclyl; R4 is NHCOR15 and R15 is alkyl substituted by piperazinyl; R5, R6, and R7 are independently selected from hydrogen, a functional group or an optionally substituted hydrocarbyl group, classified in class 544 and subclass 358+.

In accordance with 37 CFR 1.499, Applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted. Again, this list is not exhaustive, as a complete listing would be impossible to produce under the time constraints due to the sheer volume of subject matter instantly claimed. Therefore, Applicant may choose to elect a single invention by identifying another specific embodiment not listed in the exemplary groups of the invention and examiner will endeavor to group the same

The claims herein lack unity of invention under PCT Rule 13.1 and 13.2 since the

Art Unit: 1626

special technical feature that defines a contribution over the prior art. The compounds claimed contain an indole ring containing variables R1, R2, R3, R4, R5, R6, R7, R8, R9, X, etc. . . which does not define a contribution over the prior art. The substituents on the ring vary and when taken as a whole result in vastly different compounds.

Accordingly, unity of invention is considered to be lacking a restriction of the invention in accordance with the rules of unity of invention is considered to be proper. Additionally, the vastness of the claimed subject matter and the complications in understanding the claimed subject matter imposes a burden on any examination of the claimed subject matter.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sonya Wright, whose telephone number is (703) 308-4539. The examiner can normally be reached on Monday-Friday from 8:00 AM - 5:30 PM.

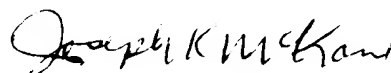
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Joseph K. McKane, can be reached at (703) 308-4537. The Unofficial fax phone number for this Group is (703) 308-7922. The Official fax phone numbers for this Group are (703) 308-4556 or 305-3592.

When filing a FAX in Technology Center 1600, please indicate in the Header (upper right) "Official" for papers that are to be entered into the file, and "Unofficial" for draft documents and other communications with the PTO that are not for entry into the file of the application. This will expedite processing of your papers.

Art Unit: 1626

applicant and should be addressed to [joseph.mckane@uspto.gov]. All Internet e-mail communications will be made of record in the application file. PTO employees will not communicate with applicant via Internet e-mail where sensitive data will be exchanged or where there exists a possibility that sensitive data could be identified unless there is of record an express waiver of the confidentiality requirements under 35 U.S.C. 122 by the applicant. See the Interim Internet Usage Policy published by the Patent and Trademark Office Official Gazette on February 25, 1997 at 1195 OG 89.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist, whose telephone number is (703) 308-1235.



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Joseph K. McKane

Supervisory Patent Examiner

Group 1600

Sonya Wright

September 30, 2002